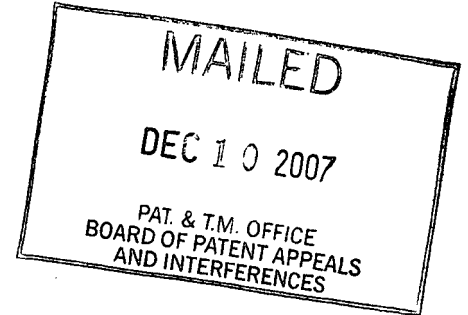


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HECTOR TORRES

Application No. 10/614,846



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on December 5, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

On June 2, 2005, appellant filed an Appeal Brief under 37 CFR § 41.37. A review of the file reveals that the "Summary of Claimed Subject Matter," as required by 41.37(c)(1)(v), is not properly set forth. 37 CFR § 41.37(c)(1)(v) which states:

(v) ***Summary of claimed subject matter.*** A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

The independent claim 1 must be mapped to the disclosure, including **specification page and line number**, and, if applicable, **drawing reference characters**.

Correction is required. MPEP § 1205.03 states:

When the Office holds the brief to be defective solely due to appellant's failure to provide a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v), an entire new brief need not, and should not, be filed. Rather, a paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v) will suffice. Failure to timely respond to the Office's requirement will result in dismissal of the appeal. See MPEP § 1215.04 and §711.02(b).

In addition, on page 3 of the Appeal Brief under the heading "Grounds of Rejection" Appellant stated:

. . . . whether Claims 1, 2, 3 and 13-15 are anticipated 35 under U.S.C. § 102 by Urakawa; and second whether Claims 3-12 are unpatentable under 35 U.S.C. § 103 over Urakawa.

In response, an Examiner's Answer was mailed on August 29, 2005. While the Answer notes that "The appellant's statement of the grounds of rejection to be reviewed on appeal is correct . . ." [page 2], the Examiner's Answer, the following § 102 rejections were made:

Claims 1, 2, 13-15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Urakawa et al.

Claims 3-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Urakawa et al.

However, on January 24, 2005, the appellant filed an amendment after final, canceling claims 16-26 which was considered and entered by the Examiner on January 28, 2005. A clarification of claim 17 to be applied under the ground of rejection is required.

Accordingly, it is

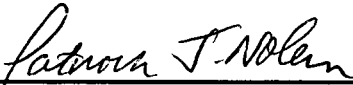
ORDERED that the application is returned to the Examiner to:

- 1) hold the Appeal Brief of June 2, 2005, defective;
- 2) notify applicants to file a paper providing a summary of the claimed subject matter as required by 37 CFR § 41.37(c)(1)(v);
- 3) consider the paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v);

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- 4) to give a proper explanation of the grounds of rejection; and
- 5) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 
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